

**आयकर अपीलीय अधिकरण “डी” न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“D” BENCH, CHENNAI**

**मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं**  
**मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**AND HON’BLE SHRI MANU KUMAR GIRI, JM**

**1. आयकर अपील सं. ITA No.288/Chny/2013**  
**(निर्धारण वर्ष / Assessment Year: 2004-05)**

**&**

**2. Stay Application No.35/Chny/2024**  
**(In ITA No.288/Chny/2013)**  
**(निर्धारण वर्ष / Assessment Year: 2004-05)**

<b>M/s. Akshay Mercantile Pvt. Ltd.</b> E-5, Moogambika Complex, 4, Lady Desika Road, Mylapore, Chennai-600 004.	<b>बनाम</b> / Vs.	<b>DCIT</b> Central Circle-II(1), Chennai.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. <b>AAACA-6248-H</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

**&**

**3. आयकर अपील सं./ITA No.429/Chny/2013**  
**(निर्धारण वर्ष / Assessment Year: 2004-05)**

<b>DCIT</b> Central Circle-II(1), Chennai.	<b>बनाम</b> / Vs.	<b>M/s. Akshay Mercantile Pvt. Ltd.</b> E-5, Moogambika Complex, 4, Lady Desika Road, Mylapore, Chennai-600 004.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. <b>AAACA-6248-H</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Assessee by</b>	:	Shri K. Ravi, (Advocate)- Ld.AR
प्रत्यर्थी की ओरसे/ <b>Revenue by</b>	:	Shri A. Sasikumar (CIT)-Ld. Sr. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	14-11-2024
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	20-11-2024

## आदेश / O R D E R

### **Manoj Kumar Aggarwal (Accountant Member)**

1.1 Aforesaid cross-appeals for Assessment Year (AY) 2004-05 arises out of order of learned Commissioner of Income Tax (Appeals)-II, Chennai [CIT(A)] dated 05-12-2012 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143(3) of the Act on 29-12-2006. The appeal of assessee is accompanied by stay application wherein the assessee is seeking stay of recovery of outstanding demand by the revenue.

#### **1.2 The grounds taken by the assessee are as under: -**

1. The order of Learned CIT (A) dated 5<sup>th</sup> December 2012 is quite arbitrary, illegal and contrary to the facts of the case of your appellant.
  - a. The Learned CIT(A) has erred in partly confirming the recognition of Interest estimated by learned assessing officer.
  - b. The Learned CIT(A) ought to realize that the nature of business is a key ingredient to adopt a accounting policy.
  - c. The Learned CIT(A) ought to realize that an assessee cannot pay tax on a notional income the receipt of which cannot be confirmed until a happening of a particular event.

#### **1.3 The grounds taken by the revenue read as under: -**

1. On the facts and in the circumstances of the case, the learned CIT(A) has erred in restricting the addition towards interest accrued at 18% as against 24% adopted by the A.O. without assigning any reason.
2. On the facts and in the circumstances of the case, the learned CIT(A) has erred in deleting the addition made at Rs.67,15,248 towards accrued interest on pronotes without noting that the relied upon orders of the CIT(A) in Appeal No. CIT(A)/CHE/ 147/05-06 dt 14-08-2007 has been disputed, the issue has not become final and appeal before the Hon'ble ITAT is pending in ITA.No.151/CHNY-2007.
2. On the facts and in the circumstances of the case, the learned CIT(A) has erred in deleting the addition made at Rs.64,24,800 towards accrued interest on advances recorded in laptop computer but not reflected in the accounts without noting that the relied upon orders of the CIT(A) in Appeal No. CIT(A )/CHE/147/05-06 dt 14-08-2007 has been disputed, the issue has not become final and appeal before the Hon'ble ITAT is pending in ITA.No.151/CHNY-2007.

At the outset, it is noted that the revenue's appeal is not maintainable in terms of low tax effect Circular No. 5 of 2024 as issued by CBDT on 15-03-2024 read with subsequent Circular No. 09 of 2024 dated 17-09-2024 which prescribe monetary limit of Rs.60 Lacs before an appeal could be preferred by revenue before Tribunal. From records, it emerges that the total tax liability as computed by Ld. AO is well below the aforesaid limit. Therefore, the appeal of the revenue stand dismissed on account of low tax effect. In the said background, we take up assessee's appeal wherein the sole issue that fall for our consideration is computation of estimated interest income on loans and advances.

2. The Ld. AR advanced arguments supporting the case of the assessee whereas Ld. CIT-DR has supported the findings given by lower authorities. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

### **Proceedings before lower authorities**

3.1 The assessee reflected interest on loans and advances for Rs.12.80 Lacs on loans of Rs.162.24 Lacs. The Ld. AO observed that interest was not recognized in few cases whereas the assessee being a company was to maintain accounts on mercantile basis. In the absence of any response as forthcoming from the assessee, Ld. AO computed interest of 24% and made addition of Rs.28.18 Lacs.

3.2 During appellate proceedings, it was stated that the assessee was engaged in film financing wherein interest is realized only at the time of release of the movies. In some cases, even the principal is not realized. However, Ld. CIT(A) upheld the observations of Ld. AO and held that once income has accrued, the same has to be offered to tax. However, Ld. CIT(A) reduced estimated interest to 18% and partly allowed the

grounds raised by the assessee. Aggrieved, the assessee is in further appeal before us.

**Our findings and Adjudication**

4. From the facts, it emerges that the assessee is following a particular accounting policy to recognize interest on loans and advances. The addition made by Ld. AO proceeds on the assumption that interest had accrued on all the loans advanced by the assessee. However, there is no finding that all loans were interest bearing loans and the interest, in fact, had accrued on these loans. There is no quarrel that the assessee being resident corporate assessee is required to offer income on mercantile basis. However, there has to be accrual of income first. In the absence of any such concrete finding by lower authorities, the estimation of notional interest is not justified. Therefore, we delete the impugned addition as sustained by Ld. CIT(A) and allow the appeal of the assessee. No other ground has been urged in the appeal.

5. In the result, the revenue's appeal stand dismissed on low tax effect. The assessee's appeal stands allowed. The connected stay application has been rendered infructuous and accordingly, dismissed.

*Order pronounced on 20<sup>th</sup> November, 2024*

**Sd/-**  
**(MANU KUMAR GIRI)**  
न्यायिक सदस्य / **JUDICIAL MEMBER**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 20-11-2024  
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**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT Chennai
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF